

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION

AIJALON WALLACE McLITTLE, II,	}	
	}	
Plaintiff,	}	
	}	
vs.	}	No. 03-2870-B/V
	}	
UNITED STATES OF AMERICA,	}	
	}	
Defendant.	}	
	}	

ORDER DENYING LEAVE TO PAY THE FILING FEE IN INSTALLMENTS

Plaintiff Aijalon Wallace McLittle, II, Bureau of Prisons inmate registration number 21050-039, an inmate at the Federal Correctional Institution in Sheridan, Oregon, filed a pro se complaint pursuant to Bivens v. Six Unknown Fed. Narcotics Agents, 403 U.S. 388 (1971), and the Federal Tort Claims Act ("FTCA"), 28 U.S.C. § 2671 et seq., in connection with his previous confinement at the Federal Correctional Institution in Memphis ("FCI-Memphis") on November 20, 2003. The Court issued an order on July 12, 2004 that, inter alia, dismissed the Bivens claim, without prejudice, pursuant to 28 U.S.C. § 1997e(a) and authorized service on the FTCA claim. The Court issued a subsequent order on December 1, 2004 clarifying that the United States of America is the only proper defendant to this action. The Court issued an order on September 29, 2005 granting defendant's motion for summary judgment and

certifying that an appeal would not be taken in good faith. Judgment was entered on October 5, 2005. Plaintiff filed a notice of appeal on October 31, 2005, and his appeal is currently pending as Sixth Circuit case no. 05-6701. On January 6, 2006, the plaintiff filed a motion seeking to pay the appellate filing fee in monthly installments. However, the plaintiff did not submit either an in forma pauperis affidavit or a certified copy of his trust fund account statement.

In this Court's November 2, 2005 order, the plaintiff was advised that, in order to take an appeal, he must pay the \$255 appellate filing fee. Plaintiff was further instructed that, if he wishes to take advantage of the installment procedures for paying the filing fee, he must comply with the procedures set out in McGore v. Wrigglesworth, 114 F.3d 601 (6th Cir. 1997), and 28 U.S.C. § 1915(b). The plaintiff's motion does not demonstrate that he is entitled to pay the filing fee in installments and, therefore, the plaintiff's motion is DENIED.

The Clerk shall send a copy of this order to the United States Court of Appeals for the Sixth Circuit.

IT IS SO ORDERED this 21st day of February, 2006.

s/ J. DANIEL BREEN
UNITED STATES DISTRICT JUDGE